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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,324	02/27/2004	Juliusz Polczynski	PSP201	1950
7590 04/25/2006			EXAMINER	
HORST KASPER 13 FOREST DRIVE WARREN, NJ 07059			WALCZAK, DAVID J	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,324

Applicant(s)

POLCZYNSKI, JULIUSZ

Examiner

David J. Walczak

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 5-11 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Various amendments could not be entered. The Applicant's instruction to replace the first paragraph on page 8 was not entered because the amended paragraph did not match the first paragraph on page 8 (it did match the first paragraph on page 7). The Applicant's instruction to replace the second paragraph on page 8 and the third paragraph on page 9 was not entered because the entire paragraph (even if the paragraph carries over to another page) should be reproduced.

These amendments need to be re-filed in the proper format.

Specification

The disclosure is objected to because of the following informalities: Because the above amendments could not be entered, the objections to the specification given in the previous office action remain in force.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession

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of the claimed invention. The newly added language "wherein the hinge is separated into block head and case prior to brushing the teeth" is considered to be new matter, i.e., the original specification did define a hinge which can be separated "into block head and case".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 6 and 14 remain rejected under 35 U.S.C. 102(b) as being anticipated by Tuseth. In regard to claim 5, Tuseth discloses a toothbrush comprised of a "structurally stiffened" handle 12 (viewing Figures 1-3, the thickened area of the handle "structurally stiffens" the handle), a block head 13, a brush 16 attached to the block head and a case 23 attached to the block head for enclosing the brush. In regard to claim 6, toothpaste (disposed in sack 17) is positioned at the bottom of the case. In regard to claim 14, a plate 15 is disposed on the block head 13 wherein the bristles protrude therefrom.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-11 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Tuseth in view of Levin. Although the Tuseth reference does not disclose the structure of the handle 12, attention is directed to the Levin reference, which discloses another toothbrush wherein the handle includes an "elongated" channel having braces 30, 36 extending perpendicularly thereto and a rib 18 extending in the direction of the channel and perpendicular to a "floor" 46 of the channel wherein the rib connects the block head 12 and the "bottom" of the channel. Further, the width of the rib decreased from the channel to the block head. Such a handle renders the toothbrush safe in that the handle cannot be sharpened. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the handle in the Tuseth device as such in order to prevent the handle from being sharpened.

Allowable Subject Matter

Claims 12 and 13 are allowed.

Response to Arguments

Applicant's arguments filed 3/3/06 have been fully considered but they are not persuasive. The Applicant contends that the Tuseth reference is not applicable against claim 5 in that said reference does not show a handle that is structurally stiffened. As

discussed supra, however, the thickened portion of the handle in the Tuseth device will "structurally stiffen" the handle.

The Applicant then contends that the Levin reference is not applicable in that the handle does not define an elongated channel. Open areas 24, 34, 44 of Levin, however, define an "elongated channel" as claimed, i.e., this channel 24, 34, 44 includes braces 30 and 36 therein.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
4/22/06